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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,849	01/29/2004	Olga Kuturianu	5681-62401	2975
35690 7590 04/04/2007 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			EXAMINER EHNE, CHARLES	
			ART UNIT	PAPER NUMBER
			2113	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/767,849

Applicant(s)

KUTURIANU ET AL.

Examiner

Charles Ehne

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-12 and 24-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 7-12 and 24-28 are not limited to tangible embodiments. In view of Applicant's disclosure. Specification pages 6-7, ¶0022, lines 5-10, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., magnetic, optical) and intangible embodiments (e.g., carrier wave, transmission medium). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,4-8,10-14,16-19,21-24,26-29 and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Beardsley (2003/0131285).

As to claim 1, Beardsley discloses a method for testing a plurality of computing products, comprising the steps of:

providing a central repository holding data structures, said data structures comprising platforms, test suites, an execution test harness, and an installer (Figure 2.22, Page 3, ¶0032, lines 1-3 & lines ¶0036, lines 3-4);

downloading said installer to a plurality of clients of said central repository (Page 3, ¶0035, lines 2-5); and

responsively to an execution of said installer in said clients downloading and installing from said central repository selected ones of said platforms and said test suites to said clients for use by said clients in testing said computing products (Page 3, ¶0033, lines 5-7 & Page 5, ¶0048, lines 5-17).

As to claim 2, Beardsley discloses the method according to claim 1, further comprising the step of providing a platform editor for making a modification of any of said platforms, said test suites, and said execution test harness, so that said modification is automatically applied to all of said clients using at least one of said platforms, said test suites, and said execution test harness (Page 5, ¶0049).

As to claim 3, Beardsley discloses the method according to claim 1, wherein said execution test harness is executed using binary files thereof residing on said central repository (Page 2, ¶0022, lines 1-6). Examiner notes that any file that is not plain text is a binary file, such as a program, sound, video and graphics file.

As to claim 4, Beardsley discloses the method according to claim 1, wherein different selected ones of said platforms and said test suites are installed on different ones of said clients (Page 5, ¶0047, lines 8-11).

As to claim 5, Beardsley discloses the method according to claim 4, wherein said different ones of said clients execute said test suites concurrently (Page 6, ¶0062, lines 4-7).

As to claim 6, Beardsley discloses the method according to claim 4, wherein said different ones of said clients execute said test suites at different times (Page 5, ¶0052, lines 12-20).

As to claim 7, Beardsley discloses a computer software product, comprising a computer-readable medium in which computer program instructions are stored, which instructions, when read by a computer, cause the computer to perform a method for testing a plurality of computing products, comprising the steps of:

defining a central repository holding data structures, said data structures comprising platforms, test suites, an execution test harness, and an installer(Figure 2.22, Page 3, ¶0032, lines 1-3 & lines ¶0036, lines 3-4);

downloading said installer to a plurality of clients of said central repository (Page 3, ¶0035, lines 2-5); and

responsively to an execution of a script generated by said installer in said clients, downloading selected ones of said platforms, said test suites to said clients for use by said clients in testing said computing products under control of said execution test harness (Page 3, ¶0033, lines 5-7 & Page 5, ¶0048, lines 5-17).

As to claim 8, Beardsley discloses the computer software product according to claim 7, wherein said computer is further instructed to perform the step of defining a platform editor for modifying at least one of said platforms, said test suites, and said execution test harness (Page 5, ¶0049).

As to claim 9, Beardsley discloses the computer software product according to claim 7, wherein said execution test harness is executed using binary files thereof residing on said central repository (Page 2, ¶0022, lines 1-6). Examiner notes that any file that is not plain text is a binary file, such as a program, sound, video and graphics file.

As to claim 10, Beardsley discloses the computer software product according to claim 7, wherein different selected ones of said platforms and said test suites are installed on different ones of said clients (Page 5, ¶0047, lines 8-11).

As to claim 11, Beardsley discloses the computer software product according to claim 10, wherein said different ones of said clients execute said test suites concurrently (Page 6, ¶0062, lines 4-7).

As to claim 12, Beardsley discloses the computer software product according to claim 10, wherein said different ones of said clients execute said test suites at different times (Page 5, ¶0052, lines 12-20).

As to claim 13, Beardsley discloses a test execution system for testing a plurality of computing products, comprising:

a central repository holding data structures, said data structures comprising platforms, test suites, and an execution test harness (Figure 2.22, Page 3, ¶0032, lines 1-3 & lines ¶0036, lines 3-4); and

an installer for downloading and installing selected ones of said platforms, and said test suites at a plurality of clients of said central repository (Page 3, ¶0035, lines 2-5).

As to claim 14, Beardsley discloses the test execution system according to claim 13, further comprising a platform editor for modifying at least one of said platforms, said test suites, and said execution test harness (Page 5, ¶0049).

As to claim 15, Beardsley discloses the test execution system according to claim 13, wherein clients of said central repository execute said execution test harness using binary files residing on said central repository (Page 2, ¶0022, lines 1-6). Examiner notes that any file that is not plain text is a binary file, such as a program, sound, video and graphics file.

As to claim 16, Beardsley discloses the test execution system according to claim 13, wherein different selected ones of said platforms and said test suites are installed on different ones of said clients (Page 5, ¶0047, lines 8-11).

As to claim 17, Beardsley discloses the test execution system according to claim 16, wherein said different ones of said clients execute said test suites concurrently (Page 6, ¶0062, lines 4-7).

As to claim 18, Beardsley discloses the test execution system according to claim 16, wherein said different ones of said clients execute said test suites at different times (Page 5, ¶0052, lines 12-20).

As to claim 19, Beardsley discloses a method for testing a plurality of computing products, comprising the steps of:

providing a central repository holding data structures, said data structures comprising platforms, test suites, an execution test harness, and an installer (Figure 2.22, Page 3, ¶0032, lines 1-3 & lines ¶0036, lines 3-4);

downloading said installer to a plurality of clients of said central repository (Page 3, ¶0035, lines 2-5);

responsively to an execution of a script generated by said installer in said clients, downloading selected ones of said platforms and said test suites to said clients for use by said clients in testing said computing products under control of said execution test harness (Page 3, ¶0033, lines 5-7 & Page 5, ¶0048, lines 5-17); and

defining a platform editor for modifying at least one of said platforms, said test suites, and said execution test harness (Page 5, ¶0049).

As to claim 20, Beardsley discloses the method according to claim 19, wherein said execution test harness is executed using binary files thereof residing on said central repository (Page 2, ¶0022, lines 1-6). Examiner notes that any file that is not plain text is a binary file, such as a program, sound, video and graphics file.



As to claim 21, Beardsley discloses the method according to claim 19, wherein different selected ones of said platforms and said test suites are installed on different ones of said clients (Page 5, ¶0047, lines 8-11).

As to claim 22, Beardsley discloses the method according to claim 21, wherein said different ones of said clients execute said test suites concurrently (Page 6, ¶0062, lines 4-7).

As to claim 23, Beardsley discloses the method according to claim 21, wherein said different ones of said clients execute said test suites at different times (Page 5, ¶0052, lines 12-20).

As to claim 24, Beardsley discloses a computer software product, comprising a computer-readable medium in which computer program instructions are stored, which instructions, when read by a computer, cause the computer to perform a method for testing a plurality of computing products, comprising the steps of:

defining a central repository holding data structures, said data structures comprising platforms, test suites, an execution test harness, and an installer (Figure 2.22, Page 3, ¶0032, lines 1-3 & lines ¶0036, lines 3-4);

downloading said installer to a plurality of clients of said central repository (Page 3, ¶0035, lines 2-5);

responsively to an execution of a script generated by said installer in said clients, downloading selected ones of said platforms and said test suites to said clients for use by said clients in testing said computing products under control of said execution test harness (Page 3, ¶0033, lines 5-7 & Page 5, ¶0048, lines 5-17); and

defining a platform editor for modifying at least one of said platforms, said test suites, and said execution test harness (Page 5, ¶0049).

As to claim 25, Beardsley discloses the computer software product according to claim 24, wherein said execution test harness is executed using binary files thereof residing on said central repository (Page 2, ¶0022, lines 1-6). Examiner notes that any file that is not plain text is a binary file, such as a program, sound, video and graphics file.

As to claim 26, Beardsley discloses the computer software product according to claim 24, wherein different selected ones of said platforms and said test suites are installed on different ones of said clients (Page 5, ¶0047, lines 8-11).

As to claim 27, Beardsley discloses the computer software product according to claim 26, wherein said different ones of said clients execute said test suites concurrently (Page 6, ¶0062, lines 4-7).

As to claim 28, Beardsley discloses the computer software product according to claim 26, wherein said different ones of said clients execute said test suites at different times (Page 5, ¶0052, lines 12-20).

As to claim 29, Beardsley discloses a test execution system for testing a plurality of computing products, comprising:

a central repository holding data structures, said data structures comprising platforms, test suites, and an execution test harness (Figure 2.22, Page 3, ¶0032, lines 1-3 & lines ¶0036, lines 3-4);

an installer for downloading and installing selected ones of said platforms, and said test suites at a plurality of clients of said central repository (Page 3, ¶0035, lines 2-5); and

a platform editor for modifying at least one of said platforms, said test suites, and said execution test harness (Page 5, ¶0049).

As to claim 30, Beardsley discloses the test execution system according to claim 29, wherein clients of said central repository execute said execution test harness using binary files residing on said central repository (Page 2, ¶0022, lines 1-6). Examiner notes that any file that is not plain text is a binary file, such as a program, sound, video and graphics file.

As to claim 31, Beardsley discloses the test execution system according to claim 29, wherein different selected ones of said platforms and said test suites are installed on different ones of said clients (Page 5, ¶0047, lines 8-11).

As to claim 32, Beardsley discloses the test execution system according to claim 31, wherein said different ones of said clients execute said test suites concurrently (Page 6, ¶0062, lines 4-7).


As to claim 33, Beardsley discloses the test execution system according to claim 31, wherein said different ones of said clients execute said test suites at different times (Page 5, ¶0052, lines 12-20).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Ehne whose telephone number is (571)-272-2471. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert M. Beausoliel  
Supervisor  
Art Unit 2113

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :8/5/04, 10/14/05, 1/23/06, 2/21/07.